REMARKS

This is a response to the Office Action dated May 9, 2007. Claims 1-48 are pending in the application. In the Office Action, claims 1-48 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1, 2, 5-7, 10, 14-15, 18-20, 22, 26-27, 30-32, 35-38, 41-43, and 45-48 are rejected under 35 U.S.C. § 112, second paragraph, for being rendered indefinite due to the use of the term "substantially." Claim 47 is rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent 7,024,562 ("Flink").

The rejections from the Office Action of May 9, 2007 are discussed below in connection with the various claims. No new matter has been added. Claims 47 and 48 have been amended for clarity. Reconsideration of the application is respectfully requested in light of the following remarks.

I.   REJECTIONS UNDER 35 U.S.C. § 101

Claims 1-48 are rejected under 35 U.S.C. §101 for allegedly being directed to non-statutory subject matter. Office Action of 05/09/2007, p. 2. Specifically, the Office Action alleges that the claims are directed to "storing a first and second logic in a memory in which a data comprises unique representation of an identification parameter to prevent identification parameter from being determined," and as such the claims lack a "Useful, Concrete, and Tangible Result." Office Action of 05/09/2007, p. 2. The Applicant respectfully disagrees with the Examiner's allegation. The Applicant believes that the claimed subject matter of storing and retrieving a substantially unique representation and an associated score in a memory, where the substantially unique representation represents an identification parameter of a first entity and acts to substantially obscure the identification parameter and substantially prevent it from being determined, is a useful, concrete and tangible result. The Specification gives several examples of the usefulness of this subject matter, such as storing data representing a consumer, and the consumer's fraud score, where the score may be accessed via telephone, fax, or other non-secure transmission. Specification, ¶13. Since the consumer cannot be identified by the data representing the consumer, the consumer's fraud score is securely stored and may be accessed securely via an unsecure transmission.

In the PTO Official Gazette of November 22, 2005, the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility ("PTO Guidelines") set forth the procedures to be followed when examining the subject matter eligibility of a patent. PTO Guidelines, pp. 1-2. The PTO Guidelines state that in order to satisfy section 101, the claimed invention must transform an article or physical object, or must otherwise product a useful, concrete and tangible result. PTO Guidelines, p. 19. Based on these guidelines, the Applicant believes a system for storing and accessing secure data is of specific, substantial, and credible utility and is therefore "useful." PTO Guidelines, pp. 20-21. Furthermore, Applicant believes that the claimed invention of storing the secure data can be substantially repeated, and is therefore "concrete." PTO Guidelines, pp. 21-22. Lastly, Applicant believes that a system for storing and accessing secure data produces a real-world result and is therefore "tangible." PTO Guidelines, p. 22.

Applicant believes that claimed invention is statutory subject matter satisfying the requirement of 35 U.S.C. §101. Therefore the Applicant respectfully requests that the Examiner withdraw this rejection of claims 1-48.

II.   REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1-2, 5-7, 10, 14-15, 18-20, 22, 26-27, 30-32, 35-38, 41-43, and 45-48 are rejected under 35 U.S.C. § 112, second paragraph, for being rendered indefinite due to the use of the term "substantially." Office Action of 05/09/2007, p. 2. The term "substantially" is used in conjunction with five terms/phrases in the claims, "substantially contextualize," "substantially unique representation," "substantially prevent," "substantially obscure," and "substantially incapable." The Applicant has removed the term "substantially" in conjunction with the term "contextualize" in claims 47 and 48. Therefore the Applicant requests that the Examiner withdraws this rejection in conjunction with the term "contextualize" in claims 47 and 48.

In regards to the phrase "substantially unique representation," the Applicant believes that the Specification provides some general guidelines as to the meaning of this phrase. The term "substantially" can be rendered definite in view of the general guidelines contained in the specification. *In re Nehrenberg*, 280 F.2d 161, 126 USPQ 383 (CCPA 1960). The Specification identifies a "Hash Value" as one example of a "substantially unique representation," thereby

giving some general guidelines as to the meaning of the phrase. Specification, ¶28. Therefore, the Applicant respectfully requests that the Examiner withdraw this rejection, in regards to the phrase "substantially unique representation" in claims 1-2, 6-7, 10, 14-15, 19-20, 22, 26-27, 30-32, 35-38, 41-43, and 45-48.

 Lastly, the Applicant believes that the phrases "substantially prevent," "substantially obscure," and "substantially incapable" reasonably apprise one of ordinary skill in the art of the scope of the invention, in view of the prior art and the status of the art. A phrase containing the term "substantially" may be rendered definite when one of ordinary skill in the art would know what was meant by the phrase. *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988). Therefore, the Applicant respectfully requests that the Examiner withdraw this rejection of the phrase "substantially prevent" in claims 1-2, 10, 14-15, 22, 26-27, 32, 35-38, 41-43, and 46-48, the phrase "substantially obscure" in claims 1-2, 10, 14-15, 22, 26-27, 32, 35-38, 41-43, and 46-48, and the phrase "substantially incapable" in claims 5 and 18.

 The Applicant believes that all uses of the term "substantially" in the claims have been properly addressed, and respectfully requests that the Examiner withdraw this rejection in regard to claims 1-2, 5-7, 10, 14-15, 18-20, 22, 26-27, 30-32, 35-38, 41-43, and 45-48.

III. **REJECTION UNDER 35 U.S.C. § 102(e)**

 Claim 47 is rejected under 35 U.S.C. § 102(e) as being anticipated by Flink. Office Action of 05/09/2007, p. 2. Flink discloses acquiring "one or more biometric sample(s) of the person." Flink, Col. 4, ll. 47-48. Flink discloses that the "biometric must be based on a distinguishable trait." Flink, Col. 3, ll. 66-67. Flink further discloses examples of human traits used for biometric samples, such as "fingerprints, voice, speech, face, retina, iris, hand-written signature, hand geometry, and wrist veins." Flink, Col. 3, ll. 38-40. Flink does not disclose "acquiring said non-secure data, said non-secure data requiring said secure data to contextualize said non-secure data," as claimed in amended independent claim 47. According to Flink, biometric samples "must be based on distinguishable traits," and are therefore inherently capable of being contextualized. Flink, Col. 3, ll. 66-67. Thus a biometric sample in Flink is, in itself, inherently distinguishable and capable of being contextualized without requiring secure data, as claimed in amended independent claim 47.

Furthermore, Flink discloses an invention for "carrying out secure signing of a person on data packet(s) sent from a sender to a recipient." Flink, Col. 4, ll. 43-44. Flink discloses "producing a first digital seal from a combination of the digital data packet(s) and the biometric sample(s)," "sending the digital data packet(s) and the biometric sample(s) and the digital seal to the recipient," "producing a second digital seal from the combination(s) of received digital data packet(s) and the received biometric sample(s)," and "comparing the first and second seals." Flink, Col. 4, ll. 50-59. Flink does not disclose "[a] method for communicating non-secure data between a first entity and a second entity" where "said first and second entities each having access to secure data" as claimed in amended independent claim 47. The recipient in the invention disclosed in Flink does not have access to any secure data, as claimed in amended independent claim 47, thus the sender must send the digital data packet(s), the biometric sample(s) and the digital seal to the recipient.

Applicant respectfully submits that amended independent claim 47 is patentable over Flink because Flink fails to disclose all of the elements of amended independent claim 47. Accordingly, Applicant requests that the Examiner withdraw this rejection of amended independent claim 47.

CONCLUSION

Each of the rejections in the Office Action dated May 9, 2007 has been addressed and no new matter has been added. Applicant respectfully submits that all of the pending claims are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to call the undersigned if it would expedite the prosecution of this application.

Respectfully submitted,

July 11, 2007
Date

/Michael G. Dreznes/
Michael G. Dreznes
Registration No. 59,965

Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200